

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2327

**TRANSFER ORDER**

**Before the Panel:**\* Pursuant to Panel Rule 7.1, plaintiffs in the two actions listed on Schedule A move to vacate our order conditionally transferring the actions to MDL No. 2327. Responding defendants Johnson & Johnson and Ethicon, Inc. (collectively Ethicon) oppose the motions to vacate.

After considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2327, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Plaintiffs do not dispute that their actions share questions of fact with MDL No. 2327. Like many of the already-centralized actions, these actions involve factual questions arising from allegations that pelvic surgical mesh products manufactured by Ethicon and related entities were defectively designed, manufactured and marketed, resulting in serious injuries, and that defendants failed to provide appropriate warnings and instructions regarding the risks and dangers posed by the devices. *See In re: Ethicon, Inc., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012).

In support of the motion to vacate, movants argue that these actions were improperly removed and that their motions for remand to state court are pending in the transferor courts. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present such arguments to the transferee judge.<sup>1</sup> *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

Plaintiffs in the Central District of California *Flores* action also argue that a court situated in California is best suited to rule upon unique issues of California law involved in *Flores*. The Panel has held repeatedly that Section 1407 transfer does not require a complete identity or even a majority of common factual or legal issues. *See, e.g., In re: Avandia Mktg., Sales Practices & Prods. Liab.*

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\* Judge Ellen Segal Huvelle took no part in the decision of this matter.

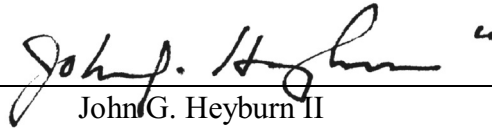
<sup>1</sup> Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand or other motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so.

-2-

*Litig.*, 543 F. Supp. 2d 1376, 1378 (J.P.M.L. 2007). Furthermore, it is “within the very nature of coordinated or consolidated pretrial proceedings in multidistrict litigation for the transferee judge to be called upon to apply the law of more than one state.” *In re: CVS Caremark Corp. Wage & Hour Emp’t Practices Litig.*, 684 F. Supp. 2d 1377, 1378 (J.P.M.L. 2010) (quoting *In re: Air Crash Disaster at John F. Kennedy Int’l Airport on June 24, 1975*, 407 F. Supp. 244 (J.P.M.L. 1976)).

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, these actions are transferred to the Southern District of West Virginia and, with the consent of that court, assigned to the Honorable Joseph R. Goodwin for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is written over a horizontal line.

John G. Heyburn II  
Chairman

Marjorie O. Rendell  
Lewis A. Kaplan  
R. David Proctor

Charles R. Breyer  
Sarah S. Vance

**IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2327

**SCHEDULE A**

Central District of California

FLORES, ET AL. v. ETHICON, INC., ET AL., C.A. No. 2:14-03367

Eastern District of Missouri

STEVENS, ET AL. v. JOHNSON & JOHNSON, INC., ET AL., C.A. No. 4:14-00579



Activity in Case MDL No. 2327 IN RE: Ethicon, Inc., Pelvic Repair System Products Liability Litigation Existing Transfer Order (Transferee Court)

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### United States Judicial Panel on Multidistrict Litigation

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**Case Name:** IN RE: Ethicon, Inc., Pelvic Repair System Products Liability Litigation

**Case Number:** [MDL No. 2327](#)

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#### MINUTE ORDER -- TO TRANSFeree CLERK: ACTION REQUIRED

A transfer order has been filed today in this litigation. The order is directed to your court for filing. Rule 2.1 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, states...An order to transfer or remand pursuant to 28 U.S.C. 1407 shall be effective only upon its filing with the clerk of the transferee district court.

Signed by Clerk of the Panel Jeffery N. Luthi on 8/13/2014.

**Associated Cases: MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579 (TB)****Case Name:** Dawn Flores et al v. Ethicon Inc et al**Case Number:** [CAC/2:14-cv-03367](#)**Filer:****WARNING: CASE CLOSED on 07/02/2014****Document Number:** No document attached**Docket Text:****\*\*\*TEXT ONLY ENTRY\*\*\*****MINUTE ORDER -- TO TRANSFEREE CLERK: ACTION REQUIRED**

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Signed by Clerk of the Panel Jeffery N. Luthi on 8/13/2014.

**Associated Cases: MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579 (TB)****Case Name:** Stevens et al v. Johnson & Johnson, Inc. et al**Case Number:** [MOE/4:14-cv-00579](#)**Filer:****Document Number:** No document attached**Docket Text:****\*\*\*TEXT ONLY ENTRY\*\*\*****MINUTE ORDER -- TO TRANSFEREE CLERK: ACTION REQUIRED**

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Signed by Clerk of the Panel Jeffery N. Luthi on 8/13/2014.

**Associated Cases: MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579 (TB)**

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United States

United States Judicial Panel on Multidistrict Litigation

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**Case Number:** [MDL No. 2327](#)

**Filer:**

**Document Number:** [1660](#)

### Docket Text:

**TRANSFER ORDER** re: pldg. (6 in CAC/2:14-cv-03367, [1575] in MDL No. 2327), (10 in CAC/2:14-cv-03367, [1598] in MDL No. 2327, 9 in MOE/4:14-cv-00579), ([1511] in MDL No. 2327, 7 in MOE/4:14-cv-00579)

**Transferring 2 action(s) - MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579**

**Signed by Judge John G. Heyburn II, Chairman, PANEL ON MULTIDISTRICT LITIGATION, on 8/13/2014.**

**Associated Cases: MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579 (TB) (Main Document 1660 replaced on 8/13/2014) (TB).**

**Case Name:** Stevens et al v. Johnson & Johnson, Inc. et al

**Case Number:** [MOE/4:14-cv-00579](#)

**Filer:**

**Document Number:** [10](#)

**Docket Text:**

**TRANSFER ORDER re: pldg. (6 in CAC/2:14-cv-03367, [1575] in MDL No. 2327), (10 in CAC/2:14-cv-03367, [1598] in MDL No. 2327, 9 in MOE/4:14-cv-00579), ([1511] in MDL No. 2327, 7 in MOE/4:14-cv-00579)**

**Transferring 2 action(s) - MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579**

**Signed by Judge John G. Heyburn II, Chairman, PANEL ON MULTIDISTRICT LITIGATION, on 8/13/2014.**

**Associated Cases: MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579 (TB) (Main Document 1660 replaced on 8/13/2014) (TB).**

**Case Name:** Dawn Flores et al v. Ethicon Inc et al

**Case Number:** [CAC/2:14-cv-03367](#)

**Filer:**

**Document Number:** [13](#)

**Docket Text:**

**TRANSFER ORDER re: pldg. (6 in CAC/2:14-cv-03367, [1575] in MDL No. 2327), (10 in CAC/2:14-cv-03367, [1598] in MDL No. 2327, 9 in MOE/4:14-cv-00579), ([1511] in MDL No. 2327, 7 in MOE/4:14-cv-00579)**

**Transferring 2 action(s) - MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579**

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**Associated Cases: MDL No. 2327, CAC/2:14-cv-03367, MOE/4:14-cv-00579 (TB) (Main Document 1660 replaced on 8/13/2014) (TB).**

**MDL No. 2327 Notice has been electronically mailed to:**

Carl N Frankovitch carl@facslaw.com, terry@facslaw.com

Michael J Farrell   mjf@farrell3.com, cnw@farrell3.com, ewl@farrell3.com, mef@farrell3.com, srp@farrell3.com, tjw@farrell3.com

Michael Bonasso   mbonasso@fsblaw.com, etaylor@fsblaw.com, mdl@fsblaw.com, nthompson@fsblaw.com

Harry F. Bell, Jr   hfbell@belllaw.com, camclain@belllaw.com

DAVID B. THOMAS   dthomas@tcspllc.com, rdavis@tcspllc.com

Paul T Farrell, Jr   paul@greeneketchum.com

Marc E. Williams   marc.williams@nelsonmullins.com

**MDL No. 2327 Notice will not be electronically mailed to:**

**MOE/4:14-cv-00579 Notice has been electronically mailed to:**

Christy D. Jones   christy.jones@butlersnow.com, ashley.lampkin@butlersnow.com, brandy.pitts@butlersnow.com, catherine.mason@butlersnow.com, ecf.notices@butlersnow.com, kcrawford@riker.com, mkabbash@riker.com

Clayton A Clark   cclark@TrialLawFirm.com, cclark@triallawfirm.com

Scott A Love   slove@triallawfirm.com, bgreif@triallawfirm.com

Randy J. Soriano   rjsoriano@bryancave.com

Thomas E Schwartz   tschwartz@holloranlaw.com

Bettina J. Strauss   bjstrauss@bryancave.com

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Christy D. Jones   christy.jones@butlersnow.com, ashley.lampkin@butlersnow.com, brandy.pitts@butlersnow.com, catherine.mason@butlersnow.com, ecf.notices@butlersnow.com, kcrawford@riker.com, mkabbash@riker.com

Mollie Fleming Benedict   mollie.benedict@tuckerellis.com, Mollie.Benedict@tuckerellis.com

Daniel Mitchell Graham   dmgapc@aol.com, debwakeman@dmgapc.com

Joshua J Wes   joshua.wes@tuckerellis.com

Lauren H Bragin   lauren.bragin@tuckerellis.com

Dennis K. Ames   dames@ljdfa.com

Wendy E. Coulston   wcoulston@ljdfa.com



Robert J. Iacopino   riacopino@ljdfa.com

John C Kelly    jckelly@cktfmlaw.com

David P Pruett   dpruett@cktfmlaw.com, lmtheobald@cktfmlaw.com

Sandra J Carlson   sjcarlson@cktfmlaw.com

Sandra Jeane Carlson   scarlson@cktfmlaw.com

John Christopher Kelly   jckelly@cktfmlaw.com

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